

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 20-cv-983

AFFORDABLE EXTERIORS LLC,

Defendant.

COMPLAINT

The United States of America ("Plaintiff"), by Scott C. Blader, United States Attorney for the Western District of Wisconsin, by Heidi L. Luehring, Assistant United States Attorney for that District, hereby states and alleges as follows:

1. This is a civil action by the United States for the recovery of a civil penalty issued by the United States Department of Labor, Occupational Safety and Health Administration ("OSHA").

2. In accordance with, 29 U.S.C. § 666(l), civil penalties owed may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office.

3. The named defendant, Affordable Exteriors LLC (“Defendant”), is a business with its principal office at 19572 County Highway F, Bloomer, WI 54724, within the Western District of Wisconsin.

CAUSE OF ACTION

4. On May 19, 2015, pursuant to 29 U.S.C. §§ 651-678, OSHA conducted an inspection of Defendant’s work site located at 7503 Feith Ave., Weston, WI. (Exhibits A and D.)

5. On November 9, 2015, OSHA issued a citation and notification of penalty against Defendant and its successors for alleged workplace violations. (Exhibit A.)

6. OSHA issued the citation and notification of penalty for the following:

- a. Citation No. 1, Item 1 -- A Serious Violation of 29 C.F.R. § 1926.20(b)(2) for the employer not initiating and maintaining a safety program which provides for frequent and regular inspections of jobsites, materials, and equipment to be made by a competent person, with a proposed penalty of \$4,620.00;
- b. Citation No. 1, Item 2 -- A Serious Violation of 29 C.F.R. § 1926.100(a) for employees working in areas where there was a possible danger of head injury from impact, or falling and flying objects, or from electrical shock and burns, and were not protected by protective helmets, with a proposed penalty of \$3,300.00;

- c. Citation No. 1, Item 3 -- A Serious Violation of 29 C.F.R. § 1926.416(e)(1) for use of worn or frayed electric cords or cables, with a proposed penalty of \$3,960.00;
- d. Citation No. 2, Item 1a -- A Willful Violation of 29 C.F.R. § 1926.21(b)(2) for the employer not instructing each employee in the recognition and avoidance of unsafe condition(s) and the regulation(s) applicable to his work environment to control or eliminate any hazard(s) or other exposure to injury or illness;
- e. Citation No. 2, Item 1b -- A Willful Violation of 29 C.F.R. § 1926.503 (a)(1) for the employer not providing a training program for each employee potentially exposed to fall hazards to enable each employee to recognize the hazards of falling and the procedures to be followed in order to minimize these hazards;
- f. Citation No. 2, Item 1c -- A Willful Violation of 29 C.F.R. § 1926.1060(a) for the employer not providing a training program for each employee using ladders and stairways, as necessary, which would enable each employee to recognize hazards related to ladders and stairways and train each employee in the procedures to be followed to minimize these hazards, with a total proposed penalty of \$46,200.00;
- g. Citation No. 2, Item 2 -- A Willful Violation of 29 C.F.R. § 1926.501 (b)(13) for each employee(s) engaged in residential construction activities 6 feet (1.8 m) or more above lower levels were not protected by guardrail

systems, safety net system, or personal fall arrest system, nor were employee(s) provided with an alternative fall protection measure under another provision of paragraph 1926.501(b), with a proposed penalty of \$46,200.00, and

h. Citation No. 3, Item 1 -- A Repeat Violation of 29 C.F.R. § 1926.102(a)(1) for eye and face protective equipment not in use when machines or operations presented potential eye or face injury from physical, chemical, or radiation agents, with a proposed penalty of \$7,920.00. (Exhibit A.)

7. On November 9, 2015, OSHA also sent the Defendant an invoice/debt collection notice ("Notice"). The Notice advised Defendant that if it failed to remit payment promptly, OSHA would be required to assess Defendant additional charges for interest, delinquent charges, and administrative costs. (Exhibit A.)

8. On August 23, 2016, Defendant entered into a Stipulation and Settlement Agreement ("Agreement") that reduced the total penalty to \$24,000. (Exhibit B.)

9. The Defendant paid a total of \$0.00 to OSHA in accordance with the Agreement. (Exhibit C.)

10. Due to the Defendant's failure to remit any penalty payments, OSHA sent a demand letter to Defendant on February 21, 2017. (Exhibit C.)

11. As of May 22, 2020, Defendant was indebted to the United States in the total amount of \$40,995.62, which includes the principal amount of \$24,000.00, interest of \$890.80, penalties of \$5,224.77, administrative costs of \$10.00, Department of the

Treasury and Department of Justice fees of \$10,870.67 (pursuant to 31 U.S.C. §§ 3717(e) and 3711(g)(6) and 28 U.S.C. § 527 (Debt Collection Improvement Note)). (Exhibit D.)

WHEREFORE, Plaintiff demands judgment against Defendant in the principal amount of \$24,000.00, plus interest totaling \$890.80 as of May 22, 2020, and interest thereafter to the date of judgment to accrue at the rate of 1.0% per annum, penalties of \$5,224.77, plus penalties to accrue to the date of judgment at the rate of 6.0% per annum, and interest from the date of judgment at the legal rate until paid in full, administrative costs of \$10.00, Department of the Treasury and Department of Justice fees of \$10,870.67, costs, pursuant to 28 U.S.C. § 1920, including a \$400.00 civil filing fee, and for all other relief this Court deems appropriate.

Dated this 27th day of October, 2020.

Respectfully submitted,

SCOTT C. BLADER
United States Attorney

By:

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